

ORDINANCE NUMBER O- 21404 (NEW SERIES)DATE OF FINAL PASSAGE FEB 08 2022

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING COASTAL DEVELOPMENT  
PERMIT NO. 2434615 AND SITE DEVELOPMENT PERMIT  
NO. 2434616 FOR THE HARPER RESIDENCE PROJECT AND  
WAIVING THE REQUIREMENT OF A HEARING AND  
CONSIDERATION BY THE LA JOLLA SHORES PLANNED  
DISTRICT ADVISORY BOARD PRIOR TO THE PASSAGE OF  
THIS ORDINANCE – PROJECT NO. 665412.

WHEREAS, Jeff Harper, Owner/Permittee, filed an application with the City of  
San Diego pursuant to San Diego Municipal Code (Municipal Code or SDMC) sections  
126.0708 and 126.0505 for Coastal Development Permit No. 2434615 and Site Development  
Permit No. 2434616 to construct a new single-family dwelling unit above a subterranean garage  
(as described in and by reference to the approved Exhibits "A" and corresponding conditions of  
approval for the associated Site Development Permit No. 2434616 and Coastal Development  
Permit No. 2434615), on portions of a 0.142-acre site, known as the Harper Residence Project;  
and

WHEREAS, the 0.142-acre site is located at 8455 El Paseo Grande in the La Jolla Shores  
Planned District Single-Family Zone, Coastal Height Limit Overlay Zone, Coastal Overlay Zone  
(Appealable), Parking Impact Overlay Zone, and Residential Tandem Parking Overlay Zone  
within the La Jolla Community Plan. The site is legally described as Lot 3 of Sharp Subdivision,  
in the City of San Diego, County of San Diego, State of California according to Map thereof  
No. 5369 filed in the office of the County Recorder of San Diego County, May 27, 1964; and

WHEREAS, due to vacancies and recusals, the La Jolla Shores Planned District Advisory  
Board was unable to obtain a quorum to hear and consider the Harper Residence project; and

WHEREAS, under San Diego Charter section 280(a)(2), this ordinance is not subject to veto by the Mayor because this matter requires the City Council of the City of San Diego (City Council) to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on January 25, 2022, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That it adopts the following findings with respect to Coastal Development Permit No. 2434615:

**Coastal Development Permit – SDMC Section 126.0708**

**1. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.**

The project is located at 8455 El Paseo Grande and is developed with a two-story, 3,700 square-foot single-family dwelling unit within an established residential area in the La Jolla Shores Planned District Ordinance (LJSPDO) Single-Family Zone of the La Jolla Community Plan Local Coastal Program. The project proposes the demolition of the existing single-family dwelling unit and construction of a 4,967 square-foot single-family dwelling unit over a 3,290-square-foot subterranean garage.

The project site, located within 300 feet from the Pacific Ocean, is not located within the First Public Roadway or within a visual access corridor, as identified within the La Jolla Community Plan. Additionally, the site is not located on an existing or proposed physical accessway that is legally utilized by the public or within or adjacent to any public vantage points or views as identified in Figure 9 of the Community Plan (Identified Public Vantage Points). La Jolla Shores Drive, located approximately 250 feet to the east, is identified in the La Jolla Community Plan as a public vantage point in the form of a partially obstructed view over private properties and down public Rights-Of-Ways. The proposed home at 29 feet in height, is approximately 30 feet below

La Jolla Shores Drive in elevation and will not impede partially obstructed views over private property from this vantage point. In accordance with the Visual Resource Recommendation 2(a) of the La Jolla Community Plan, and in accordance with Section 132.0403(a) of the Municipal Code, Supplemental Regulations, the proposed development has been designed and sited in such a manner so as to not adversely affect any potential designated public views, partially obstructed or otherwise, due to its orientation toward the ocean from La Jolla Shores Drive along with siting of existing structures on adjacent parcels.

Therefore, the proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in the Local Coastal Program Land Use Plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program Land Use plan.

**2. The proposed coastal development will not adversely affect environmentally sensitive lands.**

The environmental effects of the project were evaluated per the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. Staff determined that based on the entire record, including the Initial Study and any comments received, that the project may have potentially significant effects to Cultural Resources (Archaeology) and Tribal Cultural Resources. A Mitigation, Monitoring, and Reporting Program will be implemented to reduce any potential impacts identified in the environmental review process to a below level of significance. Archeological and Paleontological monitoring will be required during grading and construction. In the event that resources are discovered, excavation will be halted or diverted to allow recovery, evaluation, and recordation of the materials.

The project site does not contain and is not adjacent to any sensitive biological resources, sensitive coastal bluffs, steep hillsides, or special flood hazard areas, and is not located within or adjacent to the City's Multiple Species Conservation Program/Multiple Habitat Planning Area. A preliminary geotechnical investigation report prepared by Christian Wheeler Engineering for the project concluded groundwater could be found at depths of eight to 10 feet below the elevation of the proposed home's subterranean garage and will not impact groundwater flow. Additionally, the existing structure to be demolished is not over 45 years old and is not eligible for designation/listing on either the local, state, or national historic registers. As a result, the structure on the site may be demolished with the issuance of a Coastal Development Permit and a Demolition Permit. Therefore, the project will not adversely affect environmentally sensitive lands.

**3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.**

The project is located at 8455 El Paseo Grande and is developed with a two-story, 3,700 square-foot single-family dwelling unit within an established residential area in the LJSPDO Single-Family Zone of the La Jolla Community Plan Local Coastal Program. The

project proposes the demolition of the existing single-family dwelling unit and construction of a 4,967 square-foot single-family dwelling unit over a 3,290-square-foot subterranean garage.

The property is not located between the sea and the first public roadway paralleling the sea and does not impact any view corridor, intermittent or partial vistas, view sheds or scenic overlooks as identified in the adopted Community Plan. The Community Plan designates the site for low residential development allowing 5 to 9 dwelling units per acre (du/ac). The proposed project is consistent with the La Jolla Community Plan Land Use designation of Low Density Residential (5-9 DU/AC) and the LJSPDO Single-Family Zone of the La Jolla Community Plan Local Coastal Program

The project is consistent with the Community Plan's Residential Recommendations including, but not limited to:

- 2.a.1: "...preserve bulk and scale with regard to surrounding structures or landform conditions as viewed from the public right-of-way and from parks and open space"
- 2.a. "...preserve public physical and visual access as identified in Figure 9"

The height, scale, design, and proposed building materials are consistent with the architecture, design, and character of existing single-family development in the surrounding area. Exterior finishes incorporate materials and colors consistent with recently built and remodeled homes in the vicinity. Further, the project proposes a second story setback from the story below along the front building façade, providing an appropriate and visually compatible transition to existing development in the general vicinity. The architectural form and proposed massing will not be disruptive to the architectural character of the neighborhood and will be comparable to recent remodels and redevelopment in the area. Additionally, the site is not located near any existing or proposed physical accessway that is legally utilized by the public or within or adjacent to any public vantage points as identified in Figure 9 of the Community Plan.

Based on a submitted neighborhood survey of the existing development patterns, and bulk and scale comparisons within the neighborhood, the proposed development would be in general conformance with setbacks and bulk and scale, as specified in the LJSPDO Single Family Zone (LJSPDO-SF), including a building height of 29 feet, which is below the 30-foot height limit.

At the time of project submittal, the LJSPDO did not contain quantifiable development standards such as minimum building setbacks or maximum Floor Area Ratio (FAR). Instead, the LJSPDO states "Building & Structure setbacks shall be in general conformity with those in the vicinity." The side yard setbacks within the area ranges from 1.5 to 9.5 feet within a minimum "average" of approximately 3.5 feet for side yards. The project proposes a north side yard setback to the main house that ranges from 4-feet, 6-inches to 12 feet. The proposed south side yard setbacks range from 5 feet to 8 feet, 6-inches consistent with SDMC Section 1510.0304(b)(4). Based on a submitted photographic and neighborhood survey of the existing development bulk and scale comparisons, the proposed single family dwelling unit was found to be in general conformity with setbacks, bulk and scale, and character of the surrounding neighborhood and vicinity, consistent with the LJSPDO's SF-Zone, and the Coastal Overlay Zone.

The project meets all applicable regulations and policy documents, and is consistent with the land use designation, design guidelines, and development standards for this site. No deviations are requested. Therefore, the development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

**4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

The project is located at 8455 El Paseo Grande and is developed with a two-story, 3,700 square-foot single-family dwelling unit within an established residential area in the La Jolla Community Plan and Local Coastal Program Land Use Plan (Community Plan) areas. The project proposes the demolition of the existing single-family dwelling unit and construction of a 4,967 square-foot single-family dwelling unit over a 3,290-square-foot subterranean garage.

The project site is not located within the first public roadway and the sea; this finding does not apply.

Section 2. That it adopts the following findings with respect to Site Development Permit

No. 2434616:

**Site Development Permit – SDMC Section 126.0505**

**1. The proposed development will not adversely affect the applicable land use plan.**

The project is located at 8455 El Paseo Grande and is developed with a two-story, 3,700 square-foot single-family dwelling unit within an established residential area in the LJSPDO Single-Family Zone of the La Jolla Community Plan Local Coastal Program. The project proposes the demolition of the existing single-family dwelling unit and construction of a 4,967 square-foot single-family dwelling unit over a 3,290-square-foot subterranean garage.

The project site, located within 300 feet of Pacific Ocean, is not located with the First Public Roadway or within a Visual Access corridor, as identified within the La Jolla Community Plan (Community Plan). The Community Plan, Community Character sections indicates that in order to address transitions between the bulk and scale of new and older development in residential areas, the existing 30-foot height limit of the single dwelling unit zones and Proposition "D" should be maintained. Additionally, structures with front and side yard facades that exceed one story in height should slope, or step back additional stories, up to the 30-foot height limit. These design recommendations have been incorporated into the proposed replacement dwelling unit consistent with the guidelines of the La Jolla Community Plan.

The Community Plan states on page 68 under Community Character that single dwelling unit residential development in La Jolla covers a spectrum of densities and architectural styles and expressions. One of the more critical issues associated with the single dwelling unit is the relationship between the bulk and scale of infill development to existing single family dwelling

units. Additionally, the section recommends promoting good design and harmony with the visual relationships and transitions between new and older structures in order to maintain and enhance the existing neighborhood character ambience, promote good design and visual harmony in the transitions between new and existing structures and preserve the bulk and scale with regard to surrounding structure or land form conditions as viewed from the public right of way and from parks and open spaces.

The immediate neighborhood is comprised of eclectic mix of one, two- and three-story homes within a large range of sizes and styles. The proposed project reflects an American style of architecture incorporating modern and contemporary influences that is consistent with the area. The decks and courtyard facilitate "indoor-outdoor" living including stone and wood to reinforce an original design that reflects the guiding principle of "unity with variety" within the surrounding community. At the northwest corner, articulation of the building elevation was provided, and the entry was enhanced with a second story cantilever over the first level below to provide adequate amounts of light and air. Consistent with the LJSPDO recommendations and the community character standards as contained within the Community Plan, the proposed home satisfies the recommendations addressing issues such as bulk and scale by constructing a home with a FAR of 0.80 and utilizing a three dimensional design of multiple shapes compatible with existing homes in the area. The proposed project's height of 29 feet is below the maximum height limit of 30 feet with a two-story stair step design including articulation and offsetting planes with exterior treatment incorporating wood siding, stone veneers, metal frame windows and slate roofing for variation. The LJSPDO states "Building & Structure setbacks shall be in general conformity with those in the vicinity." The side yard setbacks within the area ranges from 1.5 to 9.5 feet within a minimum "average" of approximately 3.5 feet for side yards. The project proposes a north side yard setback to the main house that ranges from 4-feet, 6-inches to 12 feet. The proposed south side yard setbacks range from 5 feet to 8 feet, 6-inches consistent with SDMC Section 1510.0304(b)(4).

The project complies with the community goals regarding public view preservation and enhancement since the proposed project is located within previously developed site. Based on a submitted neighborhood survey of the existing development patterns, and bulk and scale comparisons within the neighborhood, the proposed project was determined to be in general conformance with setbacks and bulk and scale, as specified in the LJSPDO, Single-Family Zone and the Community Plan,. Therefore, the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.**

The project is located at 8455 El Paseo Grande and is developed with a two-story, 3,700 square-foot single-family dwelling unit within an established residential area in the LJSPDO Single-Family Zone of the La Jolla Community Plan Local Coastal Program. The project proposes the demolition of the existing single-family dwelling unit and construction of a 4,967 square-foot single-family dwelling unit over a 3,290-square-foot subterranean garage. A preliminary geotechnical investigation report prepared by Christian Wheeler Engineering for the project concluded groundwater could be found at depths of eight to 10 feet below the elevation of the proposed home's subterranean garage and will not impact groundwater flow.

Based on submitted plans and technical studies for City review of the existing development, the proposed development would be in conformance with the LJSPDO-SF Zone, including a building height of 29 feet, which is below the 30-foot height limit. The project's permit contains specific requirements to ensure compliance with the regulations of the Land Development Code, including those adopted to protect the public health, safety, and welfare. Permit requirements include assuring by permit and bond the reconstruction of existing damaged/unaligned pavers adjacent to the site on El Paseo Grande, implementing construction best management practices, and entering into an Encroachment Maintenance Removal Agreement for the existing and proposed pavers, existing non-standard driveway, landscape and irrigation in the El Paseo Grande Right of Way.

The environmental effects of the project were evaluated per CEQA and the State CEQA Guidelines. It was determined that based on the entire record, including the Initial Study and any comments received, that the project may have potentially significant effects to Cultural Resources (Archaeology) and Tribal Cultural Resources. A Mitigation, Monitoring, and Reporting Program will be implemented to reduce any potential impacts identified in the environmental review process to a below level of significance.

Prior to issuance of any building permit for the proposed development, the plans shall be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements,

Therefore, the project will not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.**

The project is located at 8455 El Paseo Grande and is developed with a two-story, 3,700 square-foot single-family dwelling unit within an established residential area in the LJSPDO Single-Family Zone of the La Jolla Community Plan Local Coastal Program. The project proposes the demolition of the existing single-family dwelling unit and construction of a 4,967 square-foot single-family dwelling unit over a 3,290-square-foot subterranean garage.

Based on a submitted neighborhood survey of the existing development patterns, and bulk and scale comparisons within the neighborhood, the proposed development would be in general conformance with setbacks and bulk and scale, as specified in the LJSPDO-SF Zone, including a building height of 29 feet, which is below the 30-foot height limit.

At the time of project submittal, the LJSPDO did not contain quantifiable development standards such as minimum building setbacks or maximum FAR. Instead, the LJSPDO states "Building & Structure setbacks shall be in general conformity with those in the vicinity." The side yard setbacks within the area ranges from 1.5 to 9.5 feet within a minimum "average" of approximately 3.5 feet for side yards. The project proposes a north side yard setback to the main house that ranges from 4-feet, 6-inches to 12 feet. The proposed south side yard setbacks range from 5 feet to 8 feet, 6-inches consistent with SDMC Section 1510.0304(b)(4). Based on a submitted photographic and neighborhood survey of the existing development bulk and scale

comparisons, the proposed single-family dwelling unit was found to be in general conformity with setbacks, bulk and scale, and character of the surrounding neighborhood and vicinity, consistent with the LJSPDO's SF-Zone, and the Coastal Overlay Zone.

The immediate neighborhood is comprised of eclectic mix of one, two- and three-story homes within a large range of sizes and styles. The proposed project reflects an American style of architecture incorporating modern and contemporary influences that is consistent with the area. The decks and courtyard facilitate "indoor-outdoor" living including stone and wood to reinforce an original design that reflects the guiding principle of "unity with variety" within the surrounding community. At the northwest corner, articulation of the building elevation was provided, and the entry was enhanced with a second story cantilever over the first level below to provide adequate amounts of light and air. Consistent with the LJSPDO recommendations and the community character standards as contained within the Community Plan, the proposed home satisfies the recommendations addressing issues such as bulk and scale by constructing a home with a FAR of 0.80 and utilizing a three dimensional design of multiple shapes compatible with existing homes in the area. The proposed project's height will be below the maximum height limit of 30 feet with a two-story stair step design including articulation and offsetting planes with exterior treatment incorporating wood siding, stone veneers, metal frame windows and slate roofing for variation. The LJSPDO states "Building & Structure setbacks shall be in general conformity with those in the vicinity." The side yard setbacks within the area ranges from 1.5 to 9.5 feet within a minimum "average" of approximately 3.5 feet for side yards. The project proposes a north side yard setback to the main house that ranges from 4-feet, 6-inches to 12 feet. The proposed south side yard setbacks range from 5 feet to 8 feet, 6-inches consistent with SDMC Section 1510.0304 (b)(4). The height, scale, design, and proposed building materials are all consistent with the varied architecture, design and character of existing single-family development in the surrounding area.

No deviations or variances are required, and the project complies with all applicable sections of the San Diego Municipal Code. Therefore, the project will comply with the regulations of the Land Development Code.

The above findings are supported by the minutes, maps, and exhibits, all of which are incorporated herein by this reference.

Section 3. That, based on the findings hereinbefore adopted by the City Council, Coastal Development Permit No. 2434615 and Site Development Permit No. 2434616 are granted to Jeff Harper, Owner/Permittee, under the terms and conditions set forth in the attached permit, which is made part of this ordinance.



Section 4. That, notwithstanding Municipal Code section 1510.0105, which provides for the La Jolla Shores Planned District Advisory Board to review all applications for permits for residential development within the La Jolla Shores Planned District and submit its recommendations or comments, no La Jolla Shores Planned District Advisory Board recommendation and/or comments are required related to the actions being authorized pursuant to this ordinance.

Section 5. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the City Council and the public prior to the day of its passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Lauren N. Hendrickson  
Lauren N. Hendrickson  
Deputy City Attorney

LNH:cm  
December 21, 2021  
January 13, 2022 COR. COPY  
Or.Dept: DSD  
Doc. No.: 2850884\_2

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION  
501

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

INTERNAL ORDER NUMBER: 24008635

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 2434615  
SITE DEVELOPMENT PERMIT NO. 2434616  
**HARPER RESIDENCE PROJECT NO. 665412 MMRP**  
CITY COUNCIL

This Coastal Development Permit No. 2434615 and Site Development Permit No. 2434616 are granted by the City Council of the City of San Diego to JEFF HARPER, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0502 and 126.0702. The 0.142 -acre site is located at 8455 El Paseo Grande and in the La Jolla Shores Planned District- Single-Family, Coastal (Appealable Area), Coastal Height Limit, Parking Impact and Residential Tandem Parking Overlay Zones within the La Jolla Community Plan area. The project site is legally described as: Lot 3 of Sharp Subdivision, in the City of San Diego, County of San Diego, State of California according to Map thereof No. 5369 filed in the office of the County Recorder of San Diego County, May 27, 1964.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee demolish an existing single-family dwelling unit and constructing a new single-family dwelling unit over a subterranean garage described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated January 25, 2022 on file in the Development Services Department.

The project shall include:

- a. Demolition of existing single-family dwelling unit, and construction of a 4,967 square-foot single-family dwelling unit over a 3,290-square-foot subterranean garage; and
- b. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has

been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by FEB 08 2025

2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.

3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and

b. The Permit is recorded in the Office of the San Diego County Recorder.

4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. Mitigation requirements in the **Mitigation, Monitoring, and Reporting Program [MMRP]** shall apply to this Permit. These **MMRP** conditions are hereby incorporated into this Permit by reference.

13. The mitigation measures specified in the **MMRP** and outlined in Mitigated Negative Declaration No. 665412, shall be noted on the construction plans and specifications under the heading **ENVIRONMENTAL MITIGATION REQUIREMENTS**.

14. The Owner/Permittee shall comply with the **MMRP** as specified in **MITIGATED NEGATIVE DECLARATION NO. 665412**, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the **MMRP** shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the **MMRP** shall be implemented for the following issue areas: **Cultural Resources (Archaeology) and Tribal Cultural Resources**.

**CLIMATE ACTION PLAN REQUIREMENTS:**

15. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

**ENGINEERING REQUIREMENTS:**

16. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of the existing sidewalk per current City standards, maintaining the existing sidewalk scoring pattern, adjacent to the site on El Paseo Grande, satisfactory to the City Engineer.

17. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of the existing curb with a current City standard curb and gutter, adjacent to the site on El Paseo Grande, satisfactory to the City Engineer.

18. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of the existing driveway with a current City standard 12-foot driveway, adjacent to the site on El Paseo Grande, satisfactory to the City Engineer.

19. Prior to the issuance of any building permit, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement for the sidewalk underdrains/curb outlets, landscape and irrigation in the El Paseo Grande Right of Way, satisfactory to the City Engineer.

20. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction Best Management Practices (BMPs) necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

21. Prior to the issuance of any construction permits, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

**LANDSCAPE REQUIREMENTS:**

22. Prior to issuance of any construction permits, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Storm Water Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit and Exhibit "A," on file in the Development Services Department.

23. Prior to issuance of any construction permits, the Owner/Permittee shall submit to the Development Services Department for approval complete landscape construction documents for right-of-way improvements. Improvement plans shall show, label, and dimension a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed to not prohibit the placement of street trees.

24. Prior to issuance of any construction permits, the Owner/Permittee shall submit to the Development Services Department for approval complete landscape and irrigation construction documents, which are consistent with the Landscape Standards. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per SDMC Section 142.0403(b)6.

25. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan, shall be submitted to the Development Services Department identifying all landscape areas consistent with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions, and labeled as landscaping area.

26. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

27. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed, the Owner/Permittee shall repair and/or replace in kind and in an equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy [Final Inspection].

#### **PLANNING/DESIGN REQUIREMENTS:**

28. The automobile parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing authorized by the appropriate City decision maker in accordance with the SDMC.

29. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

30. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

**INFORMATION ONLY:**

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on February 8, 2022.

COASTAL DEVELOPMENT PERMIT NO. 2434615  
SITE DEVELOPMENT PERMIT NO. 2434616  
Date of Approval: February 8, 2022

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

\_\_\_\_\_  
Oscar Galvez III  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

\_\_\_\_\_  
**The undersigned Owner/Permittee**, by execution hereof, agrees to each and every condition of  
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

**JEFF HARPER**  
Owner/Permittee

By \_\_\_\_\_  
Jeff Harper  
Owner

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**



Passed by the Council of The City of San Diego on FEB 08 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 08 2022

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JAN 25 2022, and on FEB 08 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21434